

# HOUSE BILL No. 1194

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-3-12; IC 21-9.

**Synopsis:** Prepaid college tuition. Establishes the Indiana prepaid college program. Requires the Indiana education savings authority to administer the program. Provides for the advance payment of tuition (including registration fees) at a community college or state university. Provides that the tax credit for 529 education savings plans includes money contributed to the prepaid college program.

**Effective:** July 1, 2016.

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January 7, 2016, read first time and referred to Committee on Education.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1194

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A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 6-3-3-12, AS AMENDED BY P.L.182-2009(ss),  
2       SECTION 198, IS AMENDED TO READ AS FOLLOWS  
3       [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) As used in this section,  
4       "account" has the meaning set forth in IC 21-9-2-2.  
5       (b) As used in this section, "account beneficiary" has the meaning  
6       set forth in IC 21-9-2-3.  
7       (c) As used in this section, "account owner" has the meaning set  
8       forth in IC 21-9-2-4.  
9       (d) As used in this section, "~~college choice~~ 529 education savings  
10      plan" refers to a:  
11      (1) college choice 529 investment plan established under IC 21-9;  
12      or  
13      (2) **prepaid college plan established under IC 21-9.**  
14      (e) As used in this section, "contribution" means the amount of  
15      money directly provided to a ~~college choice~~ 529 education savings plan  
16      account by a taxpayer. A contribution does not include any of the  
17      following:



(1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.

(2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan.

(f) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a ~~college choice~~ 529 education savings plan that is not a qualified withdrawal.

(g) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(h) As used in this section, "qualified withdrawal" means a withdrawal or distribution from a ~~college choice~~ 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a ~~college choice~~ 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a ~~college choice~~ 529 education savings plan as the result of a transfer of funds by a ~~college choice~~ 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a ~~college choice~~ 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

(i) As used in this section, "taxpayer" means:

(1) an individual filing a single return; or

(2) a married couple filing a joint return.

(j) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a ~~college choice~~ 529 education savings plan during the taxable year.

(2) One thousand dollars (\$1,000).



(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(k) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(l) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(m) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(n) An account owner of an account of a ~~college choice~~ 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(o) Any required repayment under subsection (o) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(p) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

(q) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) nonqualified withdrawals made from accounts of a ~~college choice~~ 529 education savings plan for the taxable year; or



(2) account closings for the taxable year.

SECTION 2. IC 21-9-1-1, AS AMENDED BY P.L.2-2007, SECTION 246, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. The following are the purposes of this article:

(1) To encourage education and the means of education.

(2) To encourage attendance at a college or university.

(3) To provide families additional means of striving for postsecondary education through an education savings program that may be established under this article.

(4) To help provide the benefits of postsecondary education to the people of Indiana.

(5) To promote the economic development of the state by creating opportunities for a more highly educated workforce.

(6) To increase employment opportunities in Indiana.

(7) To encourage a working partnership among the people of Indiana, including Indiana families, and elementary and secondary schools, colleges or universities, financial institutions, and state government in furthering a greater rate of savings and greater participation in higher education.

**(8) To establish a program for the prepayment of tuition at a guaranteed fixed cost at a state educational institution.**

SECTION 3. IC 21-9-2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 7.5. "Advance payment contract" means a contract entered into by the board and a purchaser under IC 21-9-11 for the prepayment of tuition at a state educational institution.**

SECTION 4. IC 21-9-2-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 9.3. "Community college" refers to a state educational institution included in the community college system established under IC 21-41-5.**

SECTION 5. IC 21-9-2-17.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 17.6. "Prepaid college fund" refers to the Indiana prepaid college fund established by IC 21-9-5-1(4).**

SECTION 6. IC 21-9-2-17.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 17.7. "Prepaid college program" refers to the Indiana prepaid college program established under IC 21-9-11.**

SECTION 7. IC 21-9-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2016]: **Sec. 18.5. "Purchaser"** means a person who enters into an advance payment contract with the board for the prepayment of tuition at a state educational institution.

SECTION 8. IC 21-9-2-19.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 19.1. "Qualified beneficiary"**, for purposes of IC 21-9-11, means an individual:

(1) for whom a purchaser enters into an advance payment contract for the prepayment of tuition at a state educational institution; and

(2) who is:

(A) an Indiana resident at the time a purchaser enters into an advance payment contract on behalf of the Indiana resident; or

(B) a nonresident who is the child of a noncustodial parent who is an Indiana resident at the time the noncustodial parent enters into an advance payment contract on behalf of the child.

SECTION 9. IC 21-9-2-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 20.5. "State university"** means Indiana University, Purdue University, Ball State University, Indiana State University, Vincennes University, and the University of Southern Indiana.

SECTION 10. IC 21-9-2-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 25. "Tuition"** includes the payment of registration fees.

SECTION 11. IC 21-9-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3. The authority:**

(1) may establish any number of education savings programs; and

(2) shall establish the prepaid college program as described in IC 21-9-11.

SECTION 12. IC 21-9-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 1. The following are established:**

(1) The general operating fund.

(2) The endowment fund.

(3) The **Indiana family college savings** trust fund and, in the trust fund, the following:

(A) The administrative account.

(B) The program account.

(4) **The prepaid college fund described in IC 21-9-11.**



SECTION 13. IC 21-9-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. The authority shall establish and implement investment policies in accordance with IC 5-13 for the following:

- (1) Money in the general operating fund.
- (2) Money in the administrative account **of the Indiana family college savings trust fund.**
- (3) Any other money of the authority other than money in:
  - (A) the endowment fund **and established under this chapter for the benefit of the education savings program;**
  - (B) the program account **of the Indiana family college savings trust fund; and**
  - (C) **the prepaid college fund.**

SECTION 14. IC 21-9-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. The board shall establish and implement investment policies for money in:

- (1) the endowment fund **and established under this chapter for the benefit of the education savings program;**
- (2) the program account **of the Indiana family college savings trust fund; and**
- (3) **the prepaid college fund described in IC 21-9-11;**

for investment in the manner provided by IC 30-4-3-3.

SECTION 15. IC 21-9-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. In addition to any other powers granted by this article, the board has all powers necessary or convenient to carry out and effectuate the purposes and objectives of this chapter, ~~and~~ IC 21-9-8, **and IC 21-9-11**, the purposes and objectives of an education savings program that may be established under this article, and the powers delegated by other laws or executive orders, including the following:

- (1) To establish policies and procedures to govern distributions from accounts that are not:
  - (A) made on account of the death or disability of an account beneficiary;
  - (B) made on account of the receipt of a scholarship (or allowance or payment described in Section 135(d)(1)(B) or (C) of the Internal Revenue Code) by the account beneficiary to the extent the amount of the distribution does not exceed the amount of the scholarship, allowance, or payment; or
  - (C) rollovers.
- (2) To establish penalties for withdrawals of money from accounts that are not used exclusively for the qualified higher education



1 expenses of an account beneficiary unless a circumstance  
2 described in subdivision (1) applies.

3 (3) To establish policies and procedures regarding the transfer of  
4 individual accounts and the designation of substitute account  
5 beneficiaries.

6 (4) To establish policies and procedures for withdrawal of money  
7 from accounts for, or in reimbursement of, qualified higher  
8 education expenses.

9 (5) To enter into agreements with account owners, account  
10 beneficiaries, and contributors, with the agreements naming:

11 (A) the account owner; and

12 (B) the account beneficiary.

13 (6) To establish accounts for account beneficiaries. However:

14 (A) the authority shall establish a separate account for each  
15 account beneficiary; and

16 (B) an individual may be the beneficiary of more than one (1)  
17 account.

18 (7) To enter into agreements with financial institutions relating to  
19 accounts as well as deposits, withdrawals, penalties, allocation of  
20 benefits or incentives, and transfers of accounts, account owners,  
21 and account beneficiaries.

22 (8) To conform the education savings program to federal tax  
23 advantages or incentives, as the advantages or incentives may  
24 exist periodically, to the extent consistent with the purposes and  
25 objectives of this article.

26 (9) To interpret, in rules, policies, guidelines, and procedures, the  
27 provisions of this article broadly considering the purposes and  
28 objectives of this article.

29 **(10) To do the following with respect to the prepaid college**  
30 **program described in IC 21-9-11:**

31 **(A) Establish agreements or other transactions with**  
32 **federal, state, and local agencies, including state**  
33 **universities and community colleges.**

34 **(B) Establish residency requirements for qualified**  
35 **beneficiaries.**

36 **(C) Restrict the number of participants in the prepaid**  
37 **college program. However, any person denied**  
38 **participation solely on the basis of this restriction shall be**  
39 **granted priority for participation during the succeeding**  
40 **year.**

41 **(D) Segregate contributions and payments to the prepaid**  
42 **college fund into various accounts and funds.**





(E) Require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis.

(F) Procure insurance against any loss in connection with the property, assets, and activities of the prepaid college fund or the board.

(G) Impose reasonable time limits on use of the tuition benefits provided by the prepaid college program.

(H) Establish the terms and conditions under which payments may be withdrawn from the prepaid college fund and impose reasonable fees and charges for a withdrawal.

(I) Provide for the receipt of contributions in lump sums or installment payments.

(J) Establish terms and conditions concerning the adjustment of tuition costs for a qualified beneficiary who enrolls in a state educational institution that has a lower tuition cost than the tuition cost on which the advance payment contract was based under IC 21-9-11-3(c) at the time the advance payment contract was executed.

(K) Establish other policies, procedures, and criteria to implement and administer IC 21-9-11.

SECTION 16. IC 21-9-10-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5. Board members and employees of the board are not prohibited from purchasing advance payment contracts by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.**

SECTION 17. IC 21-9-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

#### **Chapter 11. Indiana Prepaid College Program**

**Sec. 1. (a) The Indiana prepaid college program established by the authority under IC 21-9-3-3 shall provide a means through which the cost of tuition may be paid before enrollment at a state educational institution at a rate lower than the projected corresponding cost at the time of actual enrollment.**

**(b) A purchaser wanting to participate in the prepaid college program on behalf of the purchaser or another individual must enter into an advance payment contract under this chapter.**

**(c) Payments made by purchasers under advance payment**



contracts under this chapter shall be combined and invested by the board in a manner that yields, at a minimum, sufficient income to generate the difference between the prepaid amount and the cost of tuition at the time of actual enrollment. A qualified beneficiary of an advance payment contract who enrolls in a state educational institution may not be charged tuition that exceeds the tuition set forth in the advance payment contract.

Sec. 2. The board shall make advance payment contracts available under two (2) independent plans:

(1) A tuition plan that provides for the prepayment of tuition at a state university.

(2) A tuition plan that provides for the prepayment of tuition at a community college.

Sec. 3. (a) An advance payment contract must provide for the prepayment of tuition for a specified number of undergraduate semester credit hours not to exceed the average number of hours required to obtain:

(1) an associate degree at a community college; or

(2) a baccalaureate degree at a state university.

(b) With respect to an advance payment contract for tuition at a community college, the total amount of tuition to be paid by the purchaser under the plan must be based primarily on the current tuition costs within the Indiana community college system established under IC 21-41-5 at the time the advance payment contract is executed, increased by an inflation adjustment factor of one percent (1%), compounded annually, for the number of years expected to elapse between the execution of the advance payment contract and the exercise by the qualified beneficiary of the benefits provided in the plan.

(c) With respect to an advance payment contract for tuition at a state university, the total amount of tuition to be paid by the purchaser under the state university plan must be based primarily on the tuition costs of the state university with the highest tuition costs at the time the advance payment contract is executed, increased by an inflation adjustment factor of one percent (1%), compounded annually, for the number of years expected to elapse between the execution of the advance payment contract and the exercise by the qualified beneficiary of the benefits provided in the plan.

(d) For purposes of determining the amount of tuition to be paid under a tuition plan, each qualified beneficiary shall be classified as a resident of Indiana, regardless of the beneficiary's actual legal



1 residence.

2 **Sec. 4. (a) A qualified beneficiary may use a tuition plan at an**  
 3 **out-of-state higher education institution.**

4 **(b) If a qualified beneficiary uses a tuition plan at an**  
 5 **out-of-state higher education institution, the board shall transfer,**  
 6 **or cause to have transferred, an amount not to exceed the**  
 7 **redemption value of the advance payment contract or the original**  
 8 **purchase price, whichever is less, after assessment of a reasonable**  
 9 **transfer fee. If the cost of tuition charged to the qualified**  
 10 **beneficiary at the out-of-state higher education institution is less**  
 11 **than this calculated amount, the amount transferred may not**  
 12 **exceed the actual cost of tuition. Any remaining amount must be**  
 13 **transferred in subsequent semesters until the transfer value is**  
 14 **depleted. A transfer authorized under this subsection may not**  
 15 **exceed the number of semester credit hours or semesters**  
 16 **contracted on behalf of a qualified beneficiary.**

17 **Sec. 5. An advance payment contract entered into under this**  
 18 **chapter must include the following terms and conditions:**

19 **(1) The amount of the payment or payments and the number**  
 20 **of payments required from a purchaser on behalf of a**  
 21 **qualified beneficiary.**

22 **(2) The terms and conditions under which the purchaser shall**  
 23 **remit payments, including the date or dates upon which each**  
 24 **payment is due.**

25 **(3) Provisions for late payment charges and for default.**

26 **(4) Provisions for penalty fees for withdrawals from the**  
 27 **prepaid college fund.**

28 **(5) The name and date of birth of the qualified beneficiary on**  
 29 **whose behalf the contract is executed, and the terms and**  
 30 **conditions under which another person may be substituted as**  
 31 **the qualified beneficiary.**

32 **(6) The name of any person who may terminate the contract.**  
 33 **The terms of the contract must specify whether the contract**  
 34 **may be terminated by the purchaser, the qualified**  
 35 **beneficiary, a specific designated person, or any combination**  
 36 **of those persons.**

37 **(7) The terms and conditions under which a contract may be**  
 38 **terminated, modified, or converted, the name of the person**  
 39 **entitled to any refund due as a result of termination of the**  
 40 **contract in accordance with such terms and conditions, and**  
 41 **the amount of refund, if any, due to the person named.**

42 **(8) The termination of a contract if the purchaser has not**



1 contributed the total amount of payments due for the year not  
2 later than December 31 of that year.

3 (9) The number of credit hours contracted by the purchaser.

4 (10) The state educational institution toward which the  
5 contracted credit hours will be applied.

6 (11) The assumption of a contractual obligation by the board  
7 to a qualified beneficiary to provide a specified number of  
8 semester credit hours of undergraduate instruction at a state  
9 educational institution, not to exceed the average number of  
10 credit hours required to obtain the degree that corresponds to  
11 the plan purchased on behalf of the qualified beneficiary.

12 (12) The time limits imposed by the board under  
13 IC 21-9-7-1(10)(G) on the use of the tuition benefits provided  
14 by the program.

15 (13) The terms and conditions, as established by the board  
16 under IC 21-9-7-1(10)(J), under which a qualified beneficiary  
17 may be required to pay a lower amount for tuition if the  
18 qualified beneficiary enrolls in a state educational institution  
19 that has a lower tuition cost than the tuition cost on which the  
20 advance payment contract was based under IC 21-9-11-3(c)  
21 at the time the advance payment contract was executed.

22 (14) The terms and conditions under which a qualified  
23 beneficiary may use amounts in the prepaid college fund for  
24 qualified higher education expenses other than tuition.

25 (15) Other terms and conditions considered by the board to be  
26 necessary or proper.

27 Sec. 6. The board shall allow the conversion of an advance  
28 payment contract from one (1) tuition plan or payment option to  
29 a different tuition plan or payment option.

30 Sec. 7. The amount of money available in an account and the  
31 proposed use of money in an account on behalf of an account  
32 beneficiary under this chapter may not be considered by the  
33 commission for higher education under IC 21-12-3, IC 21-12-4,  
34 IC 21-12-5, IC 21-13-2, IC 21-13-7, or IC 21-13-8 when  
35 determining award amounts under another program administered  
36 by the commission for higher education.

37 Sec. 8. (a) The board shall administer the prepaid college fund  
38 established by IC 21-9-5-1.

39 (b) The prepaid college fund consists of the following:

40 (1) State appropriations.

41 (2) Money from other governmental or private sources.

42 (3) Money remitted in accordance with advance payment



contracts under this chapter.

(4) Dividends, interest, and gains accruing to the fund.

(c) The treasurer of state shall invest the money in the prepaid college fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The following increase the total funds available for the prepaid college program:

(1) Money associated with an advance payment contract terminated under section 16 of this chapter.

(2) Money associated with a canceled advance payment contract for which no refund has been claimed.

(e) Money in the prepaid college fund at the end of a state fiscal year does not revert to the state general fund.

(f) If dividends, interest, and gains exceed the amount necessary for program administration and disbursements, the board may designate an additional percentage of the prepaid college fund to serve as a contingency fund.

**Sec. 9.** The prepaid college fund shall be preserved, invested, and expended only under this chapter and may not be used for any other purpose. The fund shall be held in trust for purchasers and qualified beneficiaries.

**Sec. 10. (a)** Investment policies for the prepaid college fund must limit maximum participation by any account of the fund in a single security or credit to seven percent (7%) of that account's total assets.

(b) The limitation under subsection (a) does not apply to the following securities:

(1) Securities issued by the United States government.

(2) Securities issued by federal agencies that are guaranteed by the United States government with respect to payment of principal and interest.

(3) Securities issued by the following federal agencies that are not guaranteed by the United States government:

(A) Federal Land Banks.

(B) Federal Home Loan Banks.

(C) Federal Home Loan Mortgage Corporation.

(D) Bank for Cooperatives.

(E) Federal Intermediate Credit Banks.

(F) Federal Farm Credit Banks.

**Sec. 11.** Criteria for management of assets in the prepaid college



1 fund, including investment of assets, must provide for both asset  
 2 protection and income growth relative to expected tuition costs  
 3 while providing for the actuarial soundness of the fund.

4 Sec. 12. (a) The prepaid college fund is subject to annual audit  
 5 by an independent public accounting firm retained by the board.

6 (b) The authority shall promptly transmit copies of each annual  
 7 audit to the governor and the general assembly in an electronic  
 8 format under IC 5-14-6. Upon request, the authority shall make  
 9 copies of the audit available to qualified beneficiaries, account  
 10 owners, and the public.

11 Sec. 13. A purchaser or qualified beneficiary may not direct the  
 12 investment of any contributions or the earnings on any  
 13 contribution.

14 Sec. 14. The board shall establish:

15 (1) procedures for notifying a purchaser of any unclaimed  
 16 refund if the purchaser terminates the purchaser's contract  
 17 under the terms of the contract; and

18 (2) a time after which the purchaser is not entitled to a refund.

19 Sec. 15. Notwithstanding any other provision of this chapter, the  
 20 board may adopt rules under IC 4-22-2 necessary to enable the  
 21 prepaid college program to retain its status as a qualified state  
 22 tuition program in order to maintain the tax exempt status or other  
 23 similar status of the program, purchasers, and qualified  
 24 beneficiaries under Section 529 of the Internal Revenue Code. The  
 25 board shall inform each purchaser of any changes to the tax or  
 26 securities status of a contract purchased through the program.

27 Sec. 16. (a) An advance payment contract may provide that  
 28 contracts that have not been terminated or the benefits exercised  
 29 within a specified time shall be considered terminated.

30 (b) Time expended by a qualified beneficiary as an active duty  
 31 member of any of the armed services of the United States must be  
 32 added to the time specified under subsection (a).

33 (c) A purchaser or qualified beneficiary whose advance payment  
 34 contract is terminated under this section is not entitled to a refund.

35 (d) The board shall retain money paid by the purchaser for an  
 36 advance payment contract that has been terminated in accordance  
 37 with this section. Money retained by the board under this section  
 38 must be used by the board to further the purposes of this chapter.

39 Sec. 17. (a) Except as provided in subsections (b) and (c), a  
 40 refund may not exceed the amount paid into the fund by the  
 41 purchaser.

42 (b) If a qualified beneficiary is awarded a scholarship, the terms



1 of which cover the benefits included in the advance payment  
2 contracts, money paid for the purchase of the advance payment  
3 contracts must be returned to the purchaser in semester  
4 installments coinciding with the matriculation by the qualified  
5 beneficiary in an amount equal to the original purchase price plus  
6 five percent (5%) compounded interest.

7 (c) In the event of the death or total disability of the qualified  
8 beneficiary and upon request of the purchaser, money paid for the  
9 purchase of an advance payment contract must be returned to the  
10 purchaser together with five percent (5%) compounded interest.

11 (d) If an advance payment contract is converted from one (1)  
12 plan to a plan of lesser value, the amount refunded may not exceed  
13 the difference between the amount paid for the original contract  
14 and the amount that would have been paid for the contract to  
15 which the plan is converted, if the converted plan had been  
16 purchased under the same payment plan at the time the original  
17 advance payment contract was executed.

18 (e) A refund may not be authorized through an advance  
19 payment contract for any school year partially attended but not  
20 completed. For purposes of this subsection, a "school year partially  
21 attended but not completed" refers to a semester in which the  
22 student is still enrolled at the conclusion of the official drop-add  
23 period but withdraws before the end of the semester. If a  
24 beneficiary does not complete a community college plan or state  
25 university plan for reasons other than specified in subsection (c),  
26 the purchaser shall receive a refund of the amount paid into the  
27 prepaid college fund for the remaining unattended years of the  
28 advance payment contract in accordance with rules adopted by the  
29 board.

30 Sec. 18. Information that identifies the purchasers or qualified  
31 beneficiaries of any plan authorized under this chapter and their  
32 advance payment account activities is confidential under IC 5-14-3.  
33 However, the board may authorize the program's records  
34 administrator to release such information to a postsecondary  
35 educational institution in which a beneficiary may enroll or is  
36 enrolled. A postsecondary educational institution must maintain  
37 the confidentiality of the information.

38 Sec. 19. Money paid into or out of the prepaid college fund by or  
39 on behalf of a purchaser or qualified beneficiary of an advance  
40 payment contract made under this chapter is exempt from all  
41 claims of creditors of the purchaser or the beneficiary. Neither  
42 money paid into the program nor benefits accrued through the



1 prepaid college program may be pledged for the purpose of  
2 securing a loan.

3       **Sec. 20.** The state or any state agency or political subdivision  
4 may, by contract or collective bargaining agreement, agree with  
5 any employee to remit payments toward advance payment  
6 contracts through payroll deductions made by the appropriate  
7 officer or officers of the state, state agency, or political subdivision.  
8 A payment remitted under this section must be administered in  
9 accordance with this chapter.

10       **Sec. 21.** This chapter does not constitute a promise or guarantee  
11 that a qualified beneficiary will:

12           (1) be admitted to a state educational institution or to a  
13 particular state educational institution;

14           (2) be allowed to continue enrollment at a state educational  
15 institution after admission; or

16           (3) graduate from a state educational institution.

17       **Sec. 22.** If the prepaid college program is discontinued, a  
18 qualified beneficiary who has been accepted by and is enrolled or  
19 is within five (5) years of enrollment in an eligible state educational  
20 institution is entitled to exercise the complete benefits under the  
21 advance payment contracts. All other contract holders are entitled  
22 to receive a refund of the amount paid in and an additional amount  
23 in the nature of interest at a rate that corresponds, at a minimum,  
24 to the prevailing interest rates for savings accounts provided by  
25 banks and savings and loan associations.

